
HOUSE BILL No. 1706

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-48.3; IC 31-14-14-3; IC 31-17.

Synopsis: Grandparent and great-grandparent rights. Allows great-grandparents to seek visitation rights with their great-grandchildren in certain circumstances. Provides that a grandparent or great-grandparent may seek visitation with a child if the parent or guardian of the child refuses to allow or restricts visitation by the grandparent or great-grandparent. Establishes factors the court may consider in determining whether granting visitation rights to a grandparent or great-grandparent is in the best interests of the child.

Effective: July 1, 2009.

Borders

January 22, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1706

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-48.3, AS ADDED BY P.L.50-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 48.3. "Grandparent **or great-grandparent**
4 visitation", for purposes of IC 31-17-2.2, means visitation rights
5 granted to a grandparent **or great-grandparent** under IC 31-17-5.

6 SECTION 2. IC 31-14-14-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. An order granting or
8 denying visitation rights to a noncustodial parent does not affect
9 visitation rights granted to a grandparent **or great-grandparent** under
10 IC 31-17-5-1 or IC 31-17-5-10 (or IC 31-1-11.7-2 before its repeal).

11 SECTION 3. IC 31-17-2.2-1, AS ADDED BY P.L.50-2006,
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2009]: Sec. 1. (a) A relocating individual must file a notice of
14 the intent to move with the clerk of the court that:

15 (1) issued the custody order or parenting time order; or
16 (2) if subdivision (1) does not apply, has jurisdiction over the
17 legal proceedings concerning the custody of or parenting time

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with a child;
and send a copy of the notice to any nonrelocating individual.

(b) Upon motion of a party, the court shall set the matter for a hearing to review and modify, if appropriate, a custody order, parenting time order, grandparent **or great-grandparent** visitation order, or child support order. The court shall take into account the following in determining whether to modify a custody order, parenting time order, grandparent **or great-grandparent** visitation order, or child support order:

(1) The distance involved in the proposed change of residence.

(2) The hardship and expense involved for the nonrelocating individual to exercise parenting time or grandparent **or great-grandparent** visitation.

(3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable parenting time and grandparent **or great-grandparent** visitation arrangements, including consideration of the financial circumstances of the parties.

(4) Whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a nonrelocating individual's contact with the child.

(5) The reasons provided by the:

(A) relocating individual for seeking relocation; and

(B) nonrelocating parent for opposing the relocation of the child.

(6) Other factors affecting the best interest of the child.

(c) The court may award reasonable attorney's fees for a motion filed under this section in accordance with IC 31-15-10.

SECTION 4. IC 31-17-2.2-2, AS ADDED BY P.L.50-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) If a party provides notice of relocation at an initial hearing to determine custody, the court may consider the factors set forth in this chapter in the court's initial custody determination.

(b) The court may consider a proposed relocation of a child as a factor in determining whether to modify a custody order, parenting time order, grandparent **or great-grandparent** visitation order, or child support order.

SECTION 5. IC 31-17-2.2-3, AS AMENDED BY P.L.1-2007, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Except as provided in section 4 of this chapter, an individual required to file a notice under

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IC 31-14-13-10 or section 1 of this chapter must:

- (1) send the notice to each nonrelocating individual:
 - (A) by registered or certified mail; and
 - (B) not later than ninety (90) days before the date that the relocating individual intends to move; and
- (2) provide the following information in the notice:
 - (A) The intended new residence, including the:
 - (i) address; and
 - (ii) mailing address of the relocating individual, if the mailing address is different than the address under item (i).
 - (B) The home telephone number of the new residence.
 - (C) Any other applicable telephone number for the relocating individual.
 - (D) The date that the relocating individual intends to move.
 - (E) A brief statement of the specific reasons for the proposed relocation of the child.
 - (F) A proposal for a revised schedule of parenting time or grandparent **or great-grandparent** visitation with the child.
 - (G) A statement that a parent must file an objection to the relocation of the child with the court not later than sixty (60) days after receipt of the notice.
 - (H) A statement that a nonrelocating individual may file a petition to modify a custody order, parenting time order, grandparent **or great-grandparent** visitation order, or child support order.

(b) Except as provided in section 4 of this chapter, if the relocating individual is unable to provide the information required under subsection (a)(2) not later than ninety (90) days before the relocating individual intends to move, the relocating individual shall provide the information in the manner required under subsection (a) not later than ten (10) days after the date that the relocating individual obtains the information required to be provided under subsection (a)(2). However, the relocating individual must provide all the information required under subsection (a)(2) not later than thirty (30) days before the relocating individual intends to move to the new residence.

SECTION 6. IC 31-17-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A child's grandparent **or great-grandparent** may seek visitation rights if

- ~~(1) the child's parent is deceased;~~
- ~~(2) the marriage of the child's parents has been dissolved in Indiana; or~~
- ~~(3) subject to subsection (b); the child was born out of wedlock.~~

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1 **the parent or guardian of the child refuses to allow or restricts**
 2 **visitation by the grandparent or great-grandparent.**

3 (b) A court may not grant visitation rights to a paternal grandparent
 4 **or great-grandparent** of a child who is born out of wedlock ~~under~~
 5 ~~subsection (a)(3)~~ if the child's father has not established paternity in
 6 relation to the child.

7 SECTION 7. IC 31-17-5-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The court may
 9 grant visitation rights if the court determines that visitation rights are
 10 in the best interests of the child.

11 (b) In determining the best interests of the child under this section,
 12 the court may consider **the following:**

13 (1) Whether a grandparent **or great-grandparent** has had or has
 14 attempted to have meaningful contact with the child.

15 (2) **The wishes and concerns of the parents or guardian of the**
 16 **child.**

17 (3) **The wishes and concerns of the child if the court**
 18 **interviews the child in chambers.**

19 (4) **The needs of the child, including the following**
 20 **considerations:**

21 (A) **The physical and emotional health of the child.**

22 (B) **The safety of the child.**

23 (C) **The welfare of the child.**

24 (5) **The ability of the grandparent or great-grandparent to**
 25 **provide love, affection, and contact with the child.**

26 (6) **Any other factor the court considers relevant in**
 27 **determining the best interests of the child.**

28 (c) The court may interview the child in chambers to assist the court
 29 in determining the child's perception of whether visitation by a
 30 grandparent **or great-grandparent** is in the best interests of the child.

31 (d) The court may permit counsel to be present at the interview. If
 32 counsel is present:

33 (1) a record may be made of the interview; and

34 (2) the interview may be made part of the record for purposes of
 35 appeal.

36 SECTION 8. IC 31-17-5-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A proceeding for
 38 grandparent's **or great-grandparent's** visitation must be commenced
 39 by the filing of a petition entitled, "In Re the visitation of ____".
 40 The petition must:

41 (1) be filed by a grandparent **or great-grandparent** entitled to
 42 receive visitation rights under this chapter;

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(2) be verified; and

(3) set forth the following:

(A) The names and relationship of:

(i) the petitioning grandparent, ~~or~~ grandparents,
great-grandparent, or great-grandparents;

(ii) each child with whom visitation is sought; and

(iii) the ~~custodial~~ parent or guardian of each child.

(B) The present address of each person named in clause (A).

(C) The date of birth of each child with whom visitation is sought.

(D) The status under section 1 of this chapter upon which the grandparent **or great-grandparent** seeks visitation.

(E) The relief sought.

SECTION 9. IC 31-17-5-4, AS AMENDED BY P.L.50-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A grandparent **or great-grandparent** seeking visitation rights shall file a petition requesting reasonable visitation rights:

(1) in a circuit, superior, or probate court of the county in which the child resides in a case described in ~~section 1(a)(1); 1(a)(3);~~ **section 1(a)** or 10 of this chapter; or

(2) in the court having jurisdiction over the dissolution of the parents' marriage ~~in a case described in section 1(a)(2) of this chapter.~~ **if the marriage of the child's parents has been dissolved in Indiana.**

SECTION 10. IC 31-17-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. Whenever a petition is filed, a copy of the petition, together with a copy of a summons, shall be served upon the ~~custodial and noncustodial~~ parent or guardian of each child with whom visitation is sought in the same manner as service of summons in civil actions generally.

SECTION 11. IC 31-17-5-10, AS AMENDED BY P.L.138-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent **or the child's maternal or paternal great-grandparent** may seek visitation rights if:

(1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent **or great-grandparent** under IC 31-21-3-1 (or IC 31-17-3-12 before its repeal); and

(2) an Indiana court would have jurisdiction under IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3

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1 (or IC 31-17-3-14 before its repeal) to grant visitation rights to the
2 grandparent **or great-grandparent** in a modification decree.

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